

COMMUNICATIONS AMENDMENT—CLARIFYING
REGULATORY AUTHORITY

AUGUST 12, 1959.—Ordered to be printed

Mr. PASTORE, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany S. 1740]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1740) to amend section 202(b) of the Communications Act of 1934 in order to expand the Federal Communications Commission's regulatory authority under such section, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of S. 1740 is to amend section 202(b) of the Communications Act of 1934, as amended (47 U.S.C. 202(b)) in order to give the Federal Communications Commission statutory authority to regulate charges and services of common carriers for the use of microwave and other point-to-point radio circuits, in connection with chain broadcasting or incidental to radio communications of any kind. Such new authority would clarify the Commission's present authority to regulate charges and services in connection with the use of *wires* in chain broadcasting or incidental to radio communications of any kind. As amended, section 202(b) would provide [deletions indicated by brackets, additions by *italic*]:

(b) Charges or services, whenever referred to in this Act, include charges for, or services in connection with, the use of **[were]** *communication facilities of common carriers* in chain broadcasting or incidental to radio communication of any kind.

GENERAL STATEMENT

This bill was introduced by the chairman of your committee at the request of the Federal Communications Commission. Full and complete hearings were held by the Subcommittee on Communica-

tions at which all interested parties were afforded an opportunity to present their views.

There are two important reasons for providing the Commission with the authority set forth in this bill. First, it takes into account technical developments in the communications field occurring since enactment of the Communications Act of 1934, and secondly, serves to remove any questions concerning the Commission's regulatory authority over charges and services furnished by common carriers insofar as radio facilities are concerned.

Since the enactment of the Communications Act, important technical innovations in the use of microwave and other high frequencies have led to an increasing use of point-to-point radio communications as a substitute for, and supplement to, the use of wires in chain broadcasting. Presently, such point-to-point radio is widely used by common carriers in providing circuits for network broadcasting of radio and television programs, studio to transmitter links, and remote pick-up and control circuits for various types of radio stations. In fact, the Commission informed your Committee that certain common carriers providing this service have continued to file tariffs with the Commission governing this service whether by wire or radio, in spite of the apparent limitations of the Commissions' jurisdiction in this field to regulate charges and services for the use of wires alone.

Your committee is of the opinion that enactment of S. 1740 will remove any latent questions concerning the Commission's regulatory jurisdiction over such charges, insofar as radio facilities are concerned. Moreover, the committee feels that a clarifying amendment of this nature is appropriate, considering the increasing use of such radio facilities interchangeably with wire service in providing network service and control circuits furnished by broadcasters and other radio users. The legislation will prevent unjust or unreasonable discrimination regardless of the electronic method used by common carriers in making chain broadcaster connections.

AGENCY COMMENTS

The legislation was introduced at the request of the Federal Communications Commission; the Department of Justice, in a letter dated July 2, 1959, advised they had no objection to the bill. The letter follows:

JULY 2, 1959.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1740) to amend section 202(b) of the Communications Act of 1934 in order to expand the Federal Communications Commission's regulatory authority under such section.

Section 202(a) of the Communications Act of 1934 (47 U.S.C. 202(b)) makes it unlawful "for any common carrier to make any unjust or unreasonable discrimination in charges, practices, * * * or services * * *", and subsection (b) of section 202 provides that "charges or services * * * include charges for * * * the use of wires in chain broadcasting or incidental to radio communication of any.

kind." The bill would change the word "wires" in section 202(b) to "communication facilities of common carriers."

With the advance in the art, telephone companies now perform these connecting services by radio rather than wires (e.g., microwave relay systems). While the companies have continued to file tariffs with the Commission as to these new services, they are not required to do so in view of the statute's use of the word "wires" in 202(b). The bill would bring the statute up to date by substituting for "wires" the phrase "communication facilities of common carriers."

The Department of Justice would have no objection to the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,
Deputy Attorney General.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934, AS AMENDED

DISCRIMINATION AND PREFERENCES

SEC. 202. (a) * * *

(b) Charges or services, whenever referred to in this Act, include charges for, or services in connection with, the use of [wires] *communication facilities of common carriers* in chain broadcasting or incidental to radio communication of any kind.



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